

**Introduced by Senator Wiggins**

February 22, 2008

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An act to add Section 12315 to the Welfare and Institutions Code, relating to in-home supportive services.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 1599, as introduced, Wiggins. IHSS pilot project: eligibility: purchase of services.

Existing law provides for the In-Home Supportive Services (IHSS) program, under which, either through employment by the recipient or by or through contract by the county, qualified, aged, blind, and disabled persons receive services enabling them to remain in their own homes. Counties are responsible for the administration of the IHSS program.

This bill would require the department to establish the Project for California Independence, that would authorize certain individuals who are not financially eligible to receive in-home supportive services, to purchase those services. The bill would require the project to be conducted in any county that consents to participate, and would require the department to develop eligibility guidelines for individuals wishing to purchase services under the project, and to consult informally with designated entities and stakeholders. This bill would also permit a participating county to contract with a qualified private agency home care provider, as specified, if the provider meets specified requirements.

This bill would require a participating county to evaluate the project in accordance with criteria set forth in the bill. The bill would require the department to ensure that the Project for California Independence is conducted so as to secure maximum federal financial participation, including, if necessary, applying for a federal waiver.

This bill would provide that participating counties shall not be responsible for a share of cost for the administration of, or services provided under, the bill. The bill would prohibit a person providing in-home supportive services pursuant to the bill from being paid more in wages and benefits than if the person were providing those services to an individual under the IHSS program, and would prohibit the eligibility assessment of an applicant under the IHSS program from being delayed by the eligibility assessment of a person desiring services under the bill. It would further provide that it shall only be implemented if sufficient funds are appropriated in the annual Budget Act.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. This act shall be known, and may be cited, as the
- 2 California In-Home Supportive Services Public-Private Partnership
- 3 for California Independence Act.
- 4 SEC. 2. The Legislature finds and declares all of the following:
- 5 (a) California has a rapidly aging population.
- 6 (b) According to the Legislative Analyst's Office, between 2004
- 7 and 2010, the number of Californians 65 years of age and older
- 8 will increase by 2.4 percent per year, which will result in an
- 9 increase of more than 604,000 Californians in this age group in
- 10 just six years.
- 11 (c) The Department of Finance projects that the number of
- 12 Californians over 65 years of age, which was 3,627,284 in 2000,
- 13 will have grown to at least 4,526,578 by 2010.
- 14 (d) This explosion in our aging population will devastate
- 15 California's health care delivery system unless action is taken to
- 16 improve our ability to provide low-cost personal care services as
- 17 an alternative to acute care and nursing home stays.
- 18 (e) Unique public-private partnerships should be created to use
- 19 economies of scale to effectively and efficiently deliver services
- 20 to this population.
- 21 (f) California has developed an in-home supportive services
- 22 (IHSS) delivery system that is, by virtue of its ubiquity and
- 23 cost-effectiveness, uniquely qualified to help deal with this growing
- 24 aging population.

1 (g) Allowing the IHSS delivery system, which has been created  
2 with public funds to reduce nursing home costs and to keep persons  
3 safely at home, to begin to deliver at-cost services to Californians  
4 who do not qualify for Medi-Cal is an appropriate reward for  
5 taxpayers who have paid to create this infrastructure.

6 SEC. 3. Section 12315 is added to the Welfare and Institutions  
7 Code, to read:

8 12315. (a) (1) The department shall, on a county-by-county  
9 basis, authorize the individuals described in subdivision (b) to  
10 purchase, at their own expense, in-home supportive services (IHSS)  
11 pursuant to this chapter. After three years, each county shall  
12 evaluate the success of the project, which shall be known as the  
13 Project for California Independence, based on the criteria set forth  
14 in subdivision (c). The Project for California Independence shall  
15 be conducted in any county that consents to participate and meets  
16 the criteria set forth in this section.

17 (2) The department shall implement rules that require each  
18 county that desires to participate in the Project for California  
19 Independence to demonstrate, upon applying to participate and  
20 quarterly thereafter, that the county has a surplus of available  
21 workers currently on, or applying to be on, its registry to ensure  
22 that services that would otherwise be provided to persons who  
23 meet current IHSS eligibility requirements are not, instead, being  
24 provided to pilot project participants.

25 (3) In order to ensure that persons meeting current IHSS  
26 eligibility requirements continue to receive their assessed services,  
27 the public authority in a county that participates in the Project for  
28 California Independence may contract with a private agency home  
29 care provider to provide any portion of the Project for California  
30 Independence services, if the private agency home care provider  
31 does all of the following:

32 (A) Pays its workers wages and benefits no less than those in  
33 the public authority's collective bargaining agreement.

34 (B) Employs either the consumer's preferred worker or workers  
35 from a registry of qualified workers maintained by the public  
36 authority.

37 (C) Maintains a list of its workers with the public authority.

38 (4) In order to prevent providers from selectively choosing the  
39 most desirable clients, a provider who provides services under the

1 Project for California Independence shall have at least six months  
2 experience providing services under the IHSS program.

3 (5) A provider shall not leave employment with a current IHSS  
4 client in order to be employed by a Project for California  
5 Independence client.

6 (6) When drafting regulations for the Project for California  
7 Independence, the department shall consult informally with the  
8 California State Association of Counties, the County Welfare  
9 Directors Association of California, the California Association of  
10 Public Authorities for IHSS, senior citizen groups, IHSS employee  
11 representatives, and other stakeholders to develop eligibility  
12 guidelines for individuals wishing to purchase in-home supportive  
13 services under the Project for California Independence. The  
14 department shall also accept from those stakeholders  
15 recommendations regarding any operational issues not included  
16 in this section.

17 (b) The Project for California Independence established pursuant  
18 to this section shall apply to an individual, qualified by assessment  
19 to receive IHSS services, but who is not otherwise eligible to  
20 receive services pursuant to this chapter or pursuant to the  
21 Medi-Cal program, because of either or both of the following:

22 (1) His or her income level is less than 300 percent of the federal  
23 poverty level, but is too high to receive those services with a share  
24 of cost of less than 100 percent.

25 (2) He or she has an income of 300 percent or less of the federal  
26 poverty level but fails the Medi-Cal asset eligibility test.

27 (c) The success of the Project for California Independence shall  
28 be evaluated based on the following factors:

29 (1) Consumer satisfaction.

30 (2) Cost-effectiveness.

31 (3) Average turnover rate of providers.

32 (4) The ability to continue to provide services to persons who  
33 meet current IHSS eligibility requirements.

34 (5) The effect of the Project for California Independence on  
35 non-IHSS vendors, workers, and referral agencies.

36 (d) In evaluating the Project for California Independence, the  
37 county shall ensure all of the following:

38 (1) An independent, impartial, outside evaluator or a county  
39 employee independent of the project shall be used.

1 (2) If the county elects an outside evaluator, the county shall be  
2 responsible for all costs associated with the evaluation.

3 (3) The department shall approve the evaluation design and  
4 plan.

5 (4) Quarterly progress reports shall be completed during the  
6 evaluation year.

7 (e) The department shall take all necessary steps to ensure that  
8 the Project for California Independence is conducted so as to secure  
9 maximum federal financial participation, including, if necessary,  
10 applying for a federal waiver.

11 (f) The department shall furnish the results of the evaluation of  
12 each county's Project for California Independence to the relevant  
13 policy and budget committees of the Legislature.

14 (g) Using existing assessment methods, a participating county  
15 shall assess, as needed, individuals who wish to purchase in-home  
16 supportive services under the Project for California Independence,  
17 and shall determine the maximum number of hours they may  
18 receive, in order to ensure program integrity and continuity.

19 (h) Individuals who receive services under the Project for  
20 California Independence shall receive those services, and only  
21 those services, for which they are assessed.

22 (i) A participating county shall not be responsible for any share  
23 of cost for the administration of the Project for California  
24 Independence, or for the services provided under the project.

25 (j) A payroll or billing system created or purchased for the  
26 purpose of implementing this section shall not be paid for with  
27 public funds.

28 (k) An individual qualified to receive services under this section  
29 shall have the right to hire and fire his or her individual provider.

30 (l) A participating county shall ensure that a worker providing  
31 in-home supportive services to a person described in subdivision  
32 (b) shall be paid no more in wages and benefits than the worker  
33 would receive if he or she were providing the same services to an  
34 individual who is eligible to receive in-home supportive services  
35 under this chapter.

36 (m) A participating county shall ensure that no person who  
37 applies to receive in-home supportive services under this chapter  
38 shall have his or her assessment of eligibility for those services  
39 delayed by the assessment of eligibility for services of a person  
40 described in subdivision (b).

1 (n) Any use of this system for private-pay patients shall require  
2 that neither the state nor the counties spend taxpayer dollars to  
3 assess, provide services to, bill, or collect payment from these  
4 private-pay patients or to administer this program.

5 (o) The cost of any use of this system to create or employ a  
6 payroll system for the providers of these services shall also be  
7 borne by the private-pay patients.

8 (p) Any public-private partnership undertaken under this section  
9 shall comply with the rules governing the standard of care for  
10 recipients receiving IHSS services under the new federal waiver.

11 (q) This section shall only be implemented if sufficient funds,  
12 as determined by the department, are appropriated in the annual  
13 Budget Act. All costs incurred by a participating county or the  
14 department in the initial implementation of this section shall be  
15 funded by that appropriation.